

NOV 03 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

William Schmidt

Serial No.: 10/708,123

Group Art Unit: 2872


Filed: February 10, 2004

Examiner: Alessandro V. Amari

For: Ellipsoid Vehicular Mirror

Attorney Docket No.: ML 0196 PUS

I hereby certify that this correspondence is being transmitted via facsimile to Examiner Alessandro V. Amari at (571) 273-8300 on:

November 3, 2005
(Date of Deposit)
(Signature)AMENDMENT UNDER 37 CFR § 1.111Mail Stop Amendment
Assistant Commissioner of
Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

This paper is in response to the Office Action in the above-entitled application, mailed October 4, 2005, and allowing one month for response. This response is timely as it is filed within the one-month period for response.

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The Examiner asserts that a restriction is proper between three species:

Species 1 – Figure 2

Species 2 – Figure 3

Species 3 – Figure 5

The Examiner asserts that Applicant is required to elect a single disclosed species for prosecution to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner recognizes that at least claim 11 appears to be generic.

The Applicant is directed to elect a species and list all claims readable thereon.

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REPLY

The Applicant respectfully traverses the restriction.

The Applicant selects species one (1) with traverse. The Applicant respectfully notes that only two embodiments are illustrated and not the three indicated by the Examiner. The Applicant notes that Figure 5 (indicated as a separate species by the Examiner) is clearly indicated in the Specification and Brief Description of the Drawings as "a front perspective view of the ellipsoid mirror illustrated in Figure 2." The Applicant, therefore, submits that an election between Species 1 and Species 3 is impossible as they are one in the same.

The Applicant recognizes that the terminology may be slightly difficult to follow but feels that upon reconsideration with explanation, the Examiner may be predisposed to remove the restriction requirements. Essentially, the two species only differ as to if they are an angled back mirror (90 degree back) or a flat back mirror (180 degree back). This should not require a separate search or extra examination by the Patent Office. That said, the only claim that is not directed to the elected Species 1 is claim 14 wherein the base portions are co-planar (flat back mirror). Therefore, the elected species 1 (angled back) is covered by claims 1-13 and 15-22. The Examiner should note that the majority of claims are directed to the shape of the mirror surface (or geometry which dictates this) which therefore is applicable to both an angled back (90degree or other) or a flat back (180 degree) mirror. Only dependent claims 2, 13, 15 and 21 describe any limitations directed towards an angled back. Again, only claim 14 describes any limitations directed towards a flat back.

With this response, it is respectfully submitted that a restriction may not be proper and reconsideration is required to determine if the case is in condition for examination on the merits.

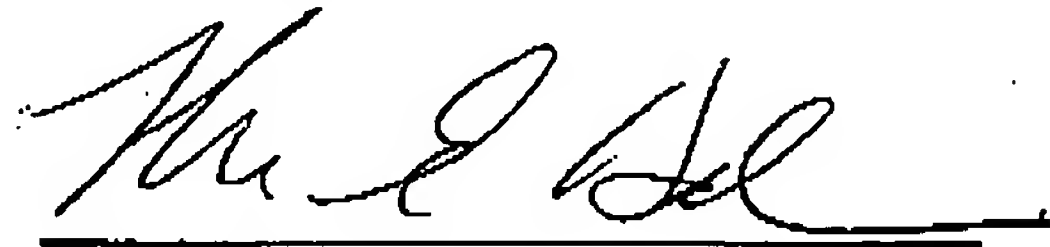
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Should the Examiner have any questions or comments, he is respectfully requested to contact the undersigned.

Respectfully submitted,



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